

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RYDELL LATTA,

Plaintiff,

-against-

NEW YORK STATE DOC,

Defendant.

21-CV-7631 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

By order dated September 14, 2021, the Court directed Plaintiff, within thirty days, to submit a completed request to proceed *in forma pauperis* (“IFP application”) and prisoner authorization or pay the \$402.00 in fees required to file a civil action in this Court. (ECF No. 3.) That order specified that failure to comply would result in dismissal of the complaint.

Because Plaintiff did not comply with the Court’s September 14, 2021, by order dated October 28, 2021, the Court dismissed this action without prejudice. (ECF No. 4.) On November 18, 2021, although his time to appeal this order had not yet expired, Plaintiff filed a motion for an extension of time of file a notice of appeal. (ECF No. 6.) Plaintiff also filed a notice of appeal, seeking to appeal the Court’s October 28, 2021 order. (ECF No. 7.)

Under Fed. R. App. P. 4(a)(1)(A), a notice of appeal in a civil case must be filed within thirty days after entry of judgment. “[T]he taking of an appeal within the prescribed time is mandatory and jurisdictional.” *In re WorldCom, Inc.*, 708 F.3d 327, 329 (2d Cir. 2013) (citation and internal quotation marks omitted). Because Plaintiff’s notice of appeal was filed within thirty days after entry of the order dismissing the action, the notice of appeal is timely and a motion for extension of time to appeal is unnecessary. Accordingly, Plaintiff’s motion for extension of time to appeal is denied as moot.

CONCLUSION

Plaintiff's motion for an extension of time to file a notice of appeal (ECF No. 6) is denied as moot. The Clerk of Court is directed to process Plaintiff's notice of appeal (ECF No. 7) in accordance with the procedures of the Clerk's Office.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

SO ORDERED.

Dated: November 22, 2021
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge